**IN THE HIGH COURT OF JUDICATURE OF BOMBAY**

**CIVIL APPELLATE JURISDICTION**

APPEAL FROM ORDER NO.50 OF 2007
WITH
CIVIL APPLICATION NO.78 OF 2007

Mr.Irfan Latif Shaikh & Ors. ..Appellants.

V/s.

The Municipal Corpn. of Gr. Bombay & Ors. ..Respondents.

Mr.Jagdish N. Jayale for appellants.

Mr.Malandkar for BMC.

**CORAM: A.M.KHANWILKAR,J**

**DATE : JANUARY 25, 2007.**

**P.C. :**

1. Heard counsel for the parties. Perused the relevant documents.

2. There is no infirmity in the ultimate conclusion reach by the trial Court. The prayer for interim injunction during the pendency of the suit has been rightly rejected. The trial Court has taken into account the fact that the suit structure was already demolished on two occasions in the past, pursuant to first show-cause notice dated 8th February, 2006, which was followed by another show-cause notice dated 30th May, 2006. These

notices were made subject matter of challenge before the City Civil Court and prayer for ad-interim relief was refused. The work, which was in progress, came to be removed by the official of the Corporation on 7th June, 2006 and once again on 26th June, 2006. Once again the appellants have started constructing the structure at the same place without seeking prior permission, for which reason, third show-cause notice was issued on 21st August, 2006. The Court below has rightly noted that the earlier order passed by the trial Court refusing to grant ad-interim relief was never challenged by the plaintiffs and in fact, the structures have been demolished on 7th June, 2006 and once again on 26th June, 2006 by the authorities. In this backdrop, the question of considering representation of the plaintiffs does not arise. The Corporation may proceed to take such action, as may be advised, with regard to the suit structure forthwith.

3. Hence, the appeal from order is dismissed.

4. In view of this order, nothing survives in the civil application. Hence disposed of accordingly.

5. At this stage, counsel for the appellants seeks stay of this order and direction against the Corporation not to take any precipitative steps. This prayer is rejected.